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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,191	03/22/2006	Tadashi Nakamura	49288.2300	4333

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EXAMINER	
LEE, NICHOLAS J	

ART UNIT	PAPER NUMBER
2627	

MAIL DATE	DELIVERY MODE
05/26/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/595,191	NAKAMURA, TADASHI	
	Examiner	Art Unit	
	NICHOLAS LEE	2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 June 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 March 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *3/22/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. References 4-7 under foreign patent documents have not been considered because it is not in the English language and no abstract translated in English has been provided.

Specification

2. The abstract of the disclosure is objected to because the abstract discloses an embodiment of the invention and fails to summarize the disclosure of the invention as contained in the description, the claims and any drawings. The abstract contains claim language. Correction is required. See MPEP § 608.01(b).

3. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:
(1) if a machine or apparatus, its organization and operation;
(2) if an article, its method of making;
(3) if a chemical compound, its identity and use;
(4) if a mixture, its ingredients;
(5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Pub. 2004/0223440 A1 to Park ("Park").

As to claim 1, Ito discloses a drive apparatus for recording information in a write-once medium, wherein the write-once recording medium (Fig. 2) includes a spare area (OSA, ISA) and a user data area (User Area) (col. 5, lines 29-42), at least one track allocated in the user data area (Fig. 3; ¶ 0057),

the drive apparatus (Fig. 11) comprising:

a recording/ reproduction section (pickup) for performing recording operation or a reproduction operation for the write-once recording medium (¶ 0081);

a driving control section (Servo) performs a process including receiving a recording instruction including a location at which data is to be recorded (¶ 0081);

receiving a recording instruction including a location at which data is to be recorded (¶ 0081);

determining a track (cluster) among at least one tracks corresponding to the location include in the recording instruction (¶ 0013);

and controlling the recording/ reproduction section to record data at a replacement location in the user data area instead of the location included in the recording instruction (¶ 0043).

It would be inherent that it would determined that a defective area of a user data area would result in a failure of recording data wherein a replacement location in the spare area would be used to record the user data (¶ 0043). If an area were successfully recorded, a replacement location would not need to be used.

As to claim 2, Park further discloses that if a defective area is found in the data area or a spare area, a process is carried out for transferring the data from the defective area to a spare area (¶ 0043).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 3-4 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Pub. 2004/0223440 A1 to Park ("Park") in view of US Patent No. 5,825,726 to Hwang et al ("Hwang").

See the discussion of Park above.

As to claim 3, the same rejection or discussion is used as in the rejection of claim 1. Park fails to disclose a drive apparatus wherein a determined track is an open track.

Hwang discloses a method of recording data on a write-once information medium (abstract, CD) wherein it is determined whether or not the last recorded session is a finalized session prior to performing a recording operation. If a session is not finalized the corresponding sessions is regarded as being open, and the track to be recorded next is recorded after the current track (col. 8, lines 18-38).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified Park with the teachings of Hwang such that the two arts are directed towards methods of recording data in allocated data areas on a write-once information medium.

As to claim 4, the same rejections or discussions are used as in the rejections of claims 1 and 3. It would be obvious that if a section determined to

not be an open track it would other wise be closed wherein the track has either been recorded in previously and closed or an unrecorded track.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NICHOLAS LEE whose telephone number is (571)270-7354. The examiner can normally be reached on Monday-Friday 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NICHOLAS LEE/
Examiner, Art Unit 2627

/Joseph H. Feild/
Supervisory Patent Examiner, Art Unit 2627